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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

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9
10 UNITED STATES OF AMERICA,) CASE NO.: 2:09-CR-477-KJD-RJJ
11 Plaintiff,) **GOVERNMENT'S SENTENCING**
12 VS.) **MEMORANDUM**
13 MALCOLM N. CHILDRESS,)
14 Defendant.)

15 The United States of America, by and through Daniel G. Bogden, United States Attorney,
16 and Brian Pugh, Assistant United States Attorney, submits this Sentencing Memorandum to
17 correct the guideline calculation and states as follows:

18 The parties originally agreed that the loss figure was more than \$1,000,000 based upon
19 six transactions that caused a total loss to lenders of \$1,069,250.00. After entering the plea,
20 defendant brought to the attention of the government that he was not involved in the first
21 transaction listed on page ten of the Plea Memorandum (Document 40) related to the purchase of
22 8163 Retriever Avenue. After further investigation, the government has determined that defendant
23 did not join the conspiracy until after the 8163 Retriever Avenue was completed. Wherefore, the
24 government respectfully requests that defendant's guidelines be adjusted downward to reflect that
25 he only participated in the remaining five transactions listed in the Plea Memorandum.
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1 The lender incurred a \$95,000.00 loss on the Retriever Avenue transaction. Hence, defendant's
2 loss calculation should be reduced by \$95,000.00 for a total loss of 964,250.00. Hence
3 defendant's guideline calculation should use a 14-level enhancement for a loss greater than
4 \$400,000 and less than \$1,000,000, U.S.S.G. § 2B1.1(b)(1)(H), rather than a 16-level enhancement
5 for a loss greater than \$1,000,000, U.S.S.G. § 2B1.1(b)(1)(I).

6 Wherefore, the government respectfully requests that this court adjust the loss figure
7 downward \$95,000.00 and reduce the loss enhancement from 16 levels to 14 levels.

8 Respectfully submitted this 24th day of September 2010.

9 DANIEL G. BOGDEN
10 United States Attorney

11 /s/
12 BRIAN PUGH
13 Assistant United States Attorney
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18 **CERTIFICATION OF SERVICE**

19 The foregoing was served upon Osvaldo Fumo, counsel for Defendant, via ECF filing,
20 this the 24th day of September 2010.
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22 /s/
23 BRIAN PUGH
24 Assistant United States Attorney
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